

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

*** FILED ***
12/10/2001

12/06/2001

CLERK OF THE COURT
FORM V000A

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

CV 2001-014386

Docket Code 019

FILED: _____

PAM STANFIELD, et al.

ANDREW M HULL

v.

COLLEEN J RAUCH

FELICITY MASON

COURT ADMIN-CIVIL-CCC
REMAND DESK CV-CCC
TOLLESON JUSTICE COURT

MINUTE ENTRY

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A) and 12-1179(A).

This matter has been under advisement since receipt of Appellant's reply memorandum on November 23, 2001. This Court has considered and reviewed the record of the proceedings from the Tolleson Justice Court, exhibits made of record and the Memoranda submitted by counsel.

Appellant was the Defendant in a Special Detainer Action brought by Appellees pursuant to A.R.S. 12-1177 and 33-1375(B). A Default Judgment was entered by the Tolleson Justice Court on November 14, 2000 when Appellant failed to appear at the time scheduled for trial. Thereafter, Appellant filed a Motion to Set Aside the Judgment asserting many of the issues he raises on appeal. On January 11, 2001, the Tolleson Justice Court denied the Motion to Set Aside the Default Judgment.

Though both parties have addressed numerous other issues in their memoranda, this Court finds that the dispositive issue is the timeliness issue. Appeals from Special Detainer Actions are provided for in A.R.S. Section 12-1179. Subsection A of that statute provides:

A. Either party may appeal from a Justice Court to the Superior Court in the County in which the judgment is given by giving notice as in other civil actions within five (5) calendar days after rendition of the judgment pursuant to this section. The appeal shall be filed in accordance with this section, and the time to appeal shall not be extended or otherwise effected by the filing of a Motion to Set Aside or Vacate the Judgment or similar motion (emphasis added).

Appellant claims that this five (5) calendar day time limit within which an Appellant must file a Notice of Appeal only applies to an appeal from a judgment and that the normal time limits for the filing of a Notice of Appeal apply to the trial court's order denying Appellant's Motion to Set Aside the Default Judgment. The Appellant is in error. The time limits provided in A.R.S. Section 12-1179(A) apply to all appealable judgments and orders in Forcible Entry/Special Detainer Actions. Therefore, the Notice of Appeal was not timely filed in this case.

For this reason,

IT IS ORDERED dismissing the appeal and remanding this matter back to the Tolleson Justice Court for all future and further proceedings.